

Washington - A panel of witnesses told the House Judiciary Subcommittee on Commercial and Administrative Law (CAL) that a set of sweeping changes to the federal bankruptcy laws passed in 2005 has wound up hurting honest consumers.

As increasingly more homeowners fall victim to predatory and exotic mortgage loans, Chairwoman Sánchez called the hearing to look at how consumers have been affected by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Bankruptcy Act), which was passed by the last Congress.

“Our bankruptcy system was created to help honest, yet unfortunate, individuals take responsibility and pay off their debts,” said Chairwoman Sánchez. “However, the Bankruptcy Act of 2005 turned this system into a minefield of ‘gotcha’s.’ This act is putting people through a bureaucratic maze when they are desperately working to regain their financial footing.”

“The [Bankruptcy Act was] premised upon allegations that there was widespread abuse in the consumer bankruptcy system,” said Henry J. Sommer, the President of the National Association of Consumer Bankruptcy Attorneys. “The reality is that this was never true, and experience since the effective date of the amendments has borne that out.”

Instead, Mr. Sommer said, “The biggest impact of the new law has been the enormous increase in the costs and burdens of filing an individual bankruptcy case.”

The subcommittee also heard from Shirley Jones Burroughs, the wife of a U.S. Army Reservist currently serving in Iraq, who has been working to protect her house from foreclosure. Burroughs and her husband refinanced their home with a loan described as a “classic example of predatory mortgage lending” and began falling behind in repayment last year.

“After exploring available options to try to save our home from foreclosure, we found that our only real option was to file a Chapter 13 bankruptcy case,” testified Burroughs, who works for an insurance company in Gastonia, North Carolina.

Burroughs testified that, instead of providing the protection that would allow her family to manage and pay off its mortgage debt, the bankruptcy system has been plagued by numerous and confusing documents, which required the additional expense of hiring a lawyer.

“[T]he 2005 amendments to the Bankruptcy Code are not protecting consumers,” said Mr. Sommer.